

## REMARKS/ARGUMENTS

This Amendment is in response to the Office Action dated October 14, 2003. Claims 1-4, 6-12, and 14-23 are pending in the present application. Claims 19 and 20 have been rejected. Claims 9, 15, and 16 have been amended to correct typographical and grammatical errors, in view of the Examiner's comments to place the claims in condition for allowance. Applicants respectfully submit that no new matter has been presented. Accordingly, claims 1-4, 6-12, and 14-23 are pending.

Applicants note with appreciation that claims 1-4, 6-12, 14-18, and 21-23 are allowed. For the reasons set forth more fully below, Applicants respectfully submit that the claims as presented are allowable. Consequently, reconsideration, allowance, and passage to issue are respectfully requested.

Applicants appreciate the courtesy and helpfulness of the Examiner in the telephone interview of December 17, 2003. Remarks have been made below in light of the points made by the Examiner in the interview.

### Claim Objections

The Examiner has stated:

**Claims 9, 15 and 16 are objected to because of the following informalities:**

**Claims 9 and 16 recite: "A medical linear accelerator comprising: a support gantry coupled to the control console ..." Examiner notes that the phrase "the control console" lacks antecedent basis.**

**Claim 15 recites: "The method of claim 14 which includes the step of alerting a radiation therapist if radiation is not delivered." Examiner suggests the phrase be re-written as follows: The method of claim 14 [which] that further includes the step of alerting a radiation therapist if radiation is not delivered.**

**Appropriate correction is required.**

In response, claims 9, 15, and 16 have been amended in accordance with the Examiner's suggestions to address the above-referenced objections. Specifically, the term "the control console" has been substituted with the term "a control console" to provide antecedent basis. Also, the term "which" has been substituted with the term "that further" as suggested by the Examiner.

### **Claim Rejections - 35 U.S.C. §112**

The Examiner has stated:

**Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

**In particular, Claim 19 recites the following preamble:**

**"A computer readable medium containing program instructions for determining if a beamblock tray is oriented correctly in a defining head of a medical linear accelerator, the program instructions for: ..."**

**Examiner notes that claim 19 recites the presence of a structure that contains program instructions for determining a beam-block tray orientation, however, the body of the claim does not recite a structure to indicate the type of medium applicant considers being his invention. Examiner additionally notes that the specification does not include a written description of a computer readable medium and concludes that claim 19 is not supported by the specification (see MPEP 608.01). Claim 20, by virtue of its dependency on claim 19 suffers from this inherited deficiency.**

Applicants respectfully submit that claim 19 is definite under 35 U.S.C. 112, second paragraph. Applicants respectfully request further reconsideration for the following reasons.

Computer readable medium claims are customary and claim 19 is written in a customary and proper format. It is the program instructions as defined in the body of claim 19 that distinguish the invention over the prior art, regardless of the type of medium. In other words, those skilled in the art would recognize that the novelty lies in the program instructions, not in the type of medium.

Furthermore, the specification supports claim 19 at page 4, line 23, to page 5, line 1, which states that the “software in the console control 20 (Figure 1) can read these codes to ensure that the correct tray is being used for a given patient.” Those skilled in the art would recognize that a computer readable medium is inherent where software is involved, because software is typically stored on a computer readable medium. Accordingly, the console control would have to interface with a computer readable medium to access the software.

Dependent claim 20 depends from claim 19. Accordingly, Applicants respectfully submit that claim 20 is also definite under 35 U.S.C. 112, second paragraph, for at least the same reasons as claim 19.

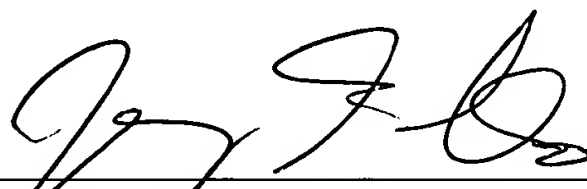
### Conclusion

In view of the foregoing, Applicants submit that claims 1-4, 6-12, and 14-23 are patentable over the prior art. Applicants, therefore, respectfully request reconsideration and allowance of the claims as now presented.

Applicants’ attorney believes that this application is in condition for allowance. Should any unresolved issues remain, the Examiner is invited to call Applicants’ attorney at the telephone number indicated below.

Respectfully submitted,

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Date

  
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